

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

|                             |   |                          |
|-----------------------------|---|--------------------------|
| CHICAGOLAND AVIATION, LLC,  | ) |                          |
|                             | ) | Case No. 12-cv-1139      |
| Plaintiff,                  | ) |                          |
|                             | ) | Judge: Ronald A. Guzman  |
|                             | ) |                          |
|                             | ) | Magistrate: Susan E. Cox |
| RICHARD R. TODD, CHICAGO    | ) |                          |
| PREMIER BOAT RENTAL AND     | ) | JURY DEMANDED            |
| LEASING, LLC, d/b/a CHICAGO | ) |                          |
| PREMIER FLIGHT TRAINING,    | ) |                          |
|                             | ) |                          |
| Defendants.                 | ) |                          |

**DEFENDANTS' MOTION TO EXPEDITE DISCOVERY *INSTANTER***

Defendants Richard R. Todd and Chicago Premier Boat Rental and Leasing, LLC d/b/a Chicago Premier Flight Training (collectively referred to as “Defendants”), by and through undersigned counsel, file the following Motion to Expedite Discovery *Instanter* pursuant to Rules 26, 30, 34, and 45 of the Federal rules of Civil Procedure and in support thereof, states the following:

1. On February 16, 2012, Plaintiff Chicagoland Aviation, LLC filed a complaint against Defendants seeking temporary, preliminary and permanent injunctive relief to remedy Defendants’ allegedly wrongful violation of the Lanham Act, 15 U.S.C. § 1125(a) (Count I), common law service mark infringement and unfair competition (Count II), the Uniform Deceptive Trade Practices (Count III), breach of fiduciary duty (Count IV), breach of confidentiality agreement (Count V), tortious interference with business expectancy (Count VI), and tortious interference with contract (Count VII).

2. On February 17, 2012, Plaintiff brought an emergency motion for temporary restraining order and injunction (“TRO”) against Defendants. (Dkt. No. 9).

3. On February 21, 2012, a TRO hearing was held before Judge Guzman, wherein Defendants were not in attendance. As a result, the temporary restraining order issued. (Dkt. No. 12).

4. On February 23, 2012, Plaintiffs filed a motion for preliminary injunction along with an affidavit by Matthew Zahora. (Dkt. No. 15). This is scheduled for a hearing on March 1, 2012.

5. Rule 65(a)(1) requires that notice be given to the adverse party before the preliminary injunction may issue and “Rule 6(d) states that any motion must be served, along with notice of the hearing thereof, not later than five days before the time set for the hearing.” *See* 11A Fed. Prac. & Proc. Civ. § 2949 (2d ed.), Chapter 9. Provisional and Final Remedies and Special Proceedings, Rule 65.

6. The executed temporary restraining order and the motion for preliminary injunction were hand delivered to Defendants on Sunday, February 26, 2012.

7. In addition, Defendants retained the undersigned counsel on February 28, 2012—just two days before the scheduled hearing.

8. In the Seventh Circuit, “a motion for a preliminary injunction should not be resolved on the basis of affidavits alone. Normally an evidentiary hearing is required to decide credibility issues.” *Medeco Security Locks, Inc. v. Swiderek*, 680 F.2d 37, 38 (7th Cir. 1981).

9. At this time, to prepare for the preliminary injunction hearing in this case, it is necessary for Defendants that certain discovery, by way of depositions, and production of documents, be scheduled and completed before the date of such hearing, including the depositions of Plaintiff Chicagoland Aviation LLC and Matthew Zahora. Should this motion to

expedite discovery be granted, Defendants will serve discovery requests and notices of deposition by no later than March 5, 2012.

10. It may also become necessary to serve third party subpoenas on individuals and entities to obtain testimony and documents which are critical to the proper preparation of Defendants' defense of this case but outside of Defendants' control.

11. To complete this discovery before the preliminary injunction hearing, the time period for producing documents and taking depositions provided for in the Federal Rules of Civil Procedure must be shortened and expedited.

12. The interests of justice and fairness require that Defendants are afforded this expedited discovery, wherein the time periods for depositions and document production be shortened and expedited by this Court.

WHEREFORE, Defendants respectfully request this Court for an Order:

- A. expediting discovery;
- B. requiring Defendants, by March 5, 2012, to serve requests for production of documents to Plaintiffs;
- C. requiring Plaintiff, by March 19, 2012, to produce documents responsive to Defendants' requests for production of documents;
- D. permitting Defendants to take the depositions of Plaintiff, Matthew Zahora at any time after March 19, 2012, at a time and place to be mutually agreed upon by the parties, but to be completed by no later than April 2, 2012;
- E. permitting Defendants to take third party discovery, but to be completed by no later than April 2, 2012; and
- F. including such other and further relief as the Court deems just and proper.

DATED: February 29, 2012

Respectfully Submitted,

/s/Nicholas S. Lee  
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*Attorneys for Defendants Richard R. Todd, and  
Chicago Premier Boat Rental and Leasing, LLC,  
d/b/a Chicago Premier Flight Training*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system on February 29, 2012. Any other counsel of record will be served by electronic mail and/or first class mail.

/s/ Nicholas S. Lee  
Nicholas S. Lee